



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB2575

Introduced 02/18/05, by Rep. Angelo Saviano

SYNOPSIS AS INTRODUCED:

5 ILCS 80/4.16	
5 ILCS 80/4.26 new	
225 ILCS 25/6	from Ch. 111, par. 2306
225 ILCS 25/7	from Ch. 111, par. 2307
225 ILCS 25/9	from Ch. 111, par. 2309
225 ILCS 25/25	from Ch. 111, par. 2325
225 ILCS 25/25.1 new	

Amends the Regulatory Sunset Act to extend the repeal date of the Illinois Dental Practice Act from January 1, 2006 to January 1, 2016. Amends the Illinois Dental Practice Act. Provides that a majority of Board of Dentistry members then appointed constitutes a quorum and that a majority vote of the quorum is required for a Board decision. Removes a provision requiring the vote of at least 7/10 of the members of the Board for the Department of Financial and Professional Regulation to adopt the recommendations of the Board in any rulemaking under the Act. Makes changes in the requirements for licensure as a dentist if the applicant completed his or her dental education by graduating from a dental college or school outside the United States or Canada. In provisions concerning investigations, removes provisions requiring that certain information be provided to a dentist or dental hygienist before taking a statement. Provides that consent orders are subject to approval by the Director (rather than must be approved by the Board and the Director). Adds provisions allowing the Department to subpoena persons and dental, pharmacy, and hospital records of individual patients of dentists and dental hygienists licensed under the Act. Effective immediately.

LRB094 03897 RAS 33909 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Regulatory Sunset Act is amended by changing
5 Section 4.16 and adding Section 4.26 as follows:

6 (5 ILCS 80/4.16)

7 Sec. 4.16. Acts repealed January 1, 2006. The following
8 Acts are repealed January 1, 2006:

9 The Respiratory Care Practice Act.

10 The Hearing Instrument Consumer Protection Act.

11 ~~The Illinois Dental Practice Act.~~

12 The Professional Geologist Licensing Act.

13 The Illinois Athletic Trainers Practice Act.

14 The Barber, Cosmetology, Esthetics, and Nail Technology
15 Act of 1985.

16 The Collection Agency Act.

17 The Illinois Roofing Industry Licensing Act.

18 The Illinois Physical Therapy Act.

19 (Source: P.A. 89-33, eff. 1-1-96; 89-72, eff. 12-31-95; 89-80,
20 eff. 6-30-95; 89-116, eff. 7-7-95; 89-366, eff. 7-1-96; 89-387,
21 eff. 8-20-95; 89-626, eff. 8-9-96.)

22 (5 ILCS 80/4.26 new)

23 Sec. 4.26. Act repealed on January 1, 2016. The following
24 Act is repealed on January 1, 2016:

25 The Illinois Dental Practice Act.

26 Section 10. The Illinois Dental Practice Act is amended by
27 changing Sections 6, 7, 9, and 25 and by adding Section 25.1 as
28 follows:

29 (225 ILCS 25/6) (from Ch. 111, par. 2306)

1 (Section scheduled to be repealed on January 1, 2006)

2 Sec. 6. Board of Dentistry - Report By Majority Required.

3 There is created a Board of Dentistry, to be composed of
4 persons designated from time to time by the Director, as
5 follows:

6 Eleven persons, 8 of whom have been dentists for a period
7 of 5 years or more; 2 of whom have been dental hygienists for a
8 period of 5 years or more, and one public member. None of the
9 members shall be an officer, dean, assistant dean, or associate
10 dean of a dental college or dental department of an institute
11 of learning, nor shall any member be the program director of
12 any dental hygiene program. A board member who holds a faculty
13 position in a dental school or dental hygiene program shall not
14 participate in the examination of applicants for licenses from
15 that school or program. The dental hygienists shall not
16 participate in the examination of applicants for licenses to
17 practice dentistry. The public member shall not participate in
18 the examination of applicants for licenses to practice
19 dentistry or dental hygiene. The board shall annually elect a
20 chairman who shall be a dentist.

21 Terms for all members shall be for 4 years. Partial terms
22 over 2 years in length shall be considered as full terms. A
23 member may be reappointed for a successive term, but no member
24 shall serve more than 2 full terms in his or her lifetime.

25 The membership of the Board shall include only residents
26 from various geographic areas of this State and shall include
27 at least some graduates from various institutions of dental
28 education in this State.

29 In making appointments to the Board the Director shall give
30 due consideration to recommendations by organizations of the
31 dental profession in Illinois, including the Illinois State
32 Dental Society and Illinois Dental Hygienists Association, and
33 shall promptly give due notice to such organizations of any
34 vacancy in the membership of the Board. The Director may
35 terminate the appointment of any member for cause which in the
36 opinion of the Director reasonably justifies such termination.

1 A vacancy in the membership of the Board shall not impair
2 the right of a quorum to exercise all the rights and perform
3 all the duties of the Board. A majority of Board members then
4 appointed constitutes a quorum. A majority vote of the quorum
5 is required for a Board decision. Any action to be taken by the
6 Board under this Act may be authorized by resolution at any
7 regular or special meeting, and each such resolution shall take
8 effect immediately. The Board shall meet at least quarterly.
9 The Board may adopt all rules and regulations necessary and
10 incident to its powers and duties under this Act.

11 The members of the Board shall each receive as compensation
12 a reasonable sum as determined by the Director for each day
13 actually engaged in the duties of the office, and all
14 legitimate and necessary expense incurred in attending the
15 meetings of the Board.

16 Members of the Board shall be immune from suit in any
17 action based upon any disciplinary proceedings or other
18 activities performed in good faith as members of the Board.

19 (Source: P.A. 93-821, eff. 7-28-04.)

20 (225 ILCS 25/7) (from Ch. 111, par. 2307)

21 (Section scheduled to be repealed on January 1, 2006)

22 Sec. 7. Recommendations by Board of Dentistry. The Director
23 shall consider the recommendations of the Board in establishing
24 guidelines for professional conduct, for the conduct of formal
25 disciplinary proceedings brought under this Act, and for
26 establishing guidelines for qualifications of applicants.
27 Notice of proposed rulemaking shall be transmitted to the Board
28 and the Department shall review the response of the Board and
29 any recommendations made therein. ~~Upon the vote of at least~~
30 ~~7/10 of the members of the Board, the Department shall adopt~~
31 ~~the recommendations of the Board in any rulemaking under this~~
32 ~~Act.~~ The Department may, at any time, seek the expert advice
33 and knowledge of the Board on any matter relating to the
34 administration or enforcement of this Act. The action or report
35 in writing of a majority of the Board shall be sufficient

1 authority upon which the Director may act.

2 Whenever the Director is satisfied that substantial
3 justice has not been done either in an examination or in the
4 revocation, suspension or refusal to issue a license, the
5 Director may order a reexamination or rehearing.

6 (Source: P.A. 84-1308.)

7 (225 ILCS 25/9) (from Ch. 111, par. 2309)

8 (Section scheduled to be repealed on January 1, 2006)

9 Sec. 9. Qualifications of Applicants for Dental Licenses.

10 The Department shall require that each applicant for a license
11 to practice dentistry shall:

12 (a) (Blank).

13 (b) Be at least 21 years of age and of good moral
14 character.

15 (c) (1) Present satisfactory evidence of completion of
16 dental education by graduation from a dental college or school
17 in the United States or Canada approved by the Department. The
18 Department shall not approve any dental college or school which
19 does not require at least (A) 60 semester hours of collegiate
20 credit or the equivalent in acceptable subjects from a college
21 or university before admission, and (B) completion of at least
22 4 academic years of instruction or the equivalent in an
23 approved dental college or school before graduation; or

24 (2) Present satisfactory evidence of completion of dental
25 education by graduation from a dental college or school outside
26 the United States or Canada and provide satisfactory evidence
27 that:

28 (A) (blank) ~~the completion of a dental education~~
29 ~~outside the United States or Canada authorized the~~
30 ~~applicant to practice dentistry in the country in which he~~
31 ~~or she completed the dental education;~~

32 (B) the applicant has completed a minimum of 2 academic
33 years of general dental clinical training at a dental
34 college or school in the United States or Canada approved
35 by the Department, except that an applicant who was

1 enrolled for not less than one year in an approved clinical
2 program prior to January 1, 1993 at an Illinois dental
3 college or school shall be required to complete only that
4 program; and

5 (C) the applicant has received certification from the
6 dean of an approved dental college or school in the United
7 States or Canada stating that the applicant has achieved
8 the same level of scientific knowledge and clinical
9 competence as required of all graduates of the college or
10 school.

11 Nothing in this Act shall be construed to prevent either
12 the Department or any dental college or school from
13 establishing higher standards than specified in this Act.

14 (d) In determining professional capacity under this
15 Section, any individual who has not been actively engaged in
16 the practice of dentistry, has not been a dental student, or
17 has not been engaged in a formal program of dental education
18 during the 5 years immediately preceding the filing of an
19 application may be required to complete such additional
20 testing, training, or remedial education as the Board may deem
21 necessary in order to establish the applicant's present
22 capacity to practice dentistry with reasonable judgment,
23 skill, and safety.

24 (e) Pass an examination authorized or given by the
25 Department in the theory and practice of the science of
26 dentistry; provided, that the Department (1) may recognize a
27 certificate granted by the National Board of Dental Examiners
28 in lieu of, or subject to, such examination as may be required
29 and (2) may recognize successful completion of the preclinical
30 and clinical examinations conducted by approved regional
31 testing services in lieu of such examinations as may be
32 required. For purposes of this Section, successful completion
33 shall mean that the applicant has achieved a minimum passing
34 score on the regional examinations as determined by each
35 approved regional testing service.

36 (Source: P.A. 88-45; 88-635, eff. 1-1-95; 89-80, eff. 6-30-95;

1 89-116, eff. 7-7-95; 89-387, eff. 8-20-95; 89-626, eff.
2 8-9-96.)

3 (225 ILCS 25/25) (from Ch. 111, par. 2325)

4 (Section scheduled to be repealed on January 1, 2006)

5 Sec. 25. Notice of hearing; investigations and informal
6 conferences.

7 (a) Upon the motion of either the Department or the Board
8 or upon the verified complaint in writing of any person setting
9 forth facts which if proven would constitute grounds for
10 refusal, suspension or revocation of license under this Act,
11 the Board shall investigate the actions of any person,
12 hereinafter called the respondent, who holds or represents that
13 he or she holds a license. All such motions or complaints shall
14 be brought to the Board.

15 (b) ~~(Blank) Prior to taking an in person statement from a~~
16 ~~dentist or dental hygienist who is the subject of a complaint,~~
17 ~~the investigator shall inform the dentist or the dental~~
18 ~~hygienist in writing:~~

19 ~~(1) that the dentist or dental hygienist is the subject~~
20 ~~of a complaint; and~~

21 ~~(2) that the dentist or dental hygienist need not~~
22 ~~immediately proceed with the interview and may seek~~
23 ~~appropriate consultation prior to consenting to the~~
24 ~~interview.~~

25 ~~A Department investigator's failure to comply with this~~
26 ~~subsection may not be the sole ground for dismissal of any~~
27 ~~order of the Department filed upon a finding of a violation or~~
28 ~~for dismissal of a pending investigation.~~

29 (c) If the Department concludes on the basis of a complaint
30 or its initial investigation that there is a possible violation
31 of the Act, the Department may:

32 (1) schedule a hearing pursuant to this Act; or

33 (2) request in writing that the dentist or dental
34 hygienist being investigated attend an informal conference
35 with representatives of the Department.

1 The request for an informal conference shall contain the
2 nature of the alleged actions or inactions that constitute the
3 possible violations.

4 A dentist or dental hygienist shall be allowed to have
5 legal counsel at the informal conference. If the informal
6 conference results in a consent order between the accused
7 dentist or dental hygienist and the Department, the consent
8 order is subject to approval by ~~must be approved by the Board~~
9 ~~and~~ the Director. Participation in the informal conference by a
10 dentist, a dental hygienist, or the Department and any
11 admissions or stipulations made by a dentist, a dental
12 hygienist, or the Department at the informal conference,
13 including any agreements in a consent order that is
14 subsequently disapproved by either the Board or the Director,
15 shall not be used against the dentist, dental hygienist, or
16 Department at any subsequent hearing and shall not become a
17 part of the record of the hearing.

18 (d) The Director shall, before suspending, revoking,
19 placing on probationary status, or taking any other
20 disciplinary action as the Director may deem proper with regard
21 to any license, at least 30 days prior to the date set for the
22 hearing, notify the respondent in writing of any charges made
23 and the time and place for a hearing of the charges before the
24 Board, direct him or her to file his or her written answer
25 thereto to the Board under oath within 20 days after the
26 service on him or her of such notice and inform him or her that
27 if he or she fails to file such answer default will be taken
28 against him or her and his or her license may be suspended,
29 revoked, placed on probationary status, or other disciplinary
30 action may be taken with regard thereto, including limiting the
31 scope, nature or extent of his or her practice, as the Director
32 may deem proper.

33 (e) Such written notice and any notice in such proceedings
34 thereafter may be served by delivery personally to the
35 respondent, or by registered or certified mail to the address
36 last theretofore specified by the respondent in his or her last

1 notification to the Director.

2 (Source: P.A. 91-689, eff. 1-1-01.)

3 (225 ILCS 25/25.1 new)

4 Sec. 25.1. Subpoena powers. The Department has power to
5 subpoena and bring before it any person in this State and to
6 take testimony either orally or by deposition, or both, with
7 the same fees and mileage and in the same manner as is
8 prescribed by law for judicial procedure in civil cases.

9 The Department, in the course of an investigation as to
10 whether or not a violation of one or more of the grounds for
11 discipline listed in Section 23 or 24 of this Act has occurred
12 or is occurring, may subpoena the dental, pharmacy, and
13 hospital records of individual patients of dentists and dental
14 hygienists licensed under this Act. All dental records and
15 other information received pursuant to subpoena shall be
16 confidential and shall be afforded the same status as is
17 provided information concerning medical studies in Part 21 of
18 Article VIII of the Code of Civil Procedure. The use of such
19 records shall be restricted to members of the Board of
20 Dentistry, the dental coordinators, and appropriate staff of
21 the Department of Professional Regulation designated by the
22 Director for the purpose of determining the existence of one or
23 more grounds for discipline of the dentist or dental hygienist
24 as provided for by Section 23 or 24 of this Act. Any such
25 review of individual patients' records shall be conducted by
26 the Department in strict confidentiality, provided that such
27 patient records shall be admissible in a disciplinary hearing,
28 before the Director, the Board of Dentistry, or a hearing
29 officer designated by the Department, when necessary to
30 substantiate the grounds for discipline alleged against the
31 dentist or dental hygienist licensed under this Act, and
32 provided further, that nothing herein shall be deemed to
33 supersede the provisions of Part 21 of Article VIII of the Code
34 of Civil Procedure, to the extent applicable.

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.